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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/829,801	04/10/2001	Harry J. Last		1909

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EXAMINER

JOHNSON, BLAIR M

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 03/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Applicant(s)

09/829,801

Applicant(s)

LAST, HARRY J.

Examiner

Blair M. Johnson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-67 is/are pending in the application.
- 4a) Of the above claim(s) 5-8, 12, 18-21, 23, 25, 29-45 and 49-66 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 9-11, 13-17, 22, 24, 26-28, 46-48 and 67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

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***Election/Restrictions***

Claims 5-8, 12, 20, 21, 23, 25, 30, 34-36, 38-45 and 49-63 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention and/or species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper Nos. 5 and 7.

The Examiner has considered Applicant's remarks and accompanying election.

Initially, the Examiner would like to apologize for the two part, "piecemeal", restriction requirements which has resulted in the prolonged prosecution of this application. There is no reason why the species restriction requirement was not presented with the initial restriction of inventions and this situation is regretted.

Regarding the election and traverse, it is noted that several different travel limiters and several different brake systems are disclosed as well as claimed. It is also noted that the distinct nature of each of the respective species is not argued. The election is found on pages 12 and 13 of the response of 12/27/02. Applicant has elected the travel limiter of Figs. 15-17 and the worm drive as the brake. The control system is removed as a subject of species restriction.

The Examiner disagrees somewhat with the claims indicated by Applicant as readable on the elected species, as follows:

Claims 5 and 20 are drawn to the nonelected one way brake.

Claims 6 and 25 are drawn to the nonelected hard stop travel limiter.

Claims 7 and 23 are drawn to the nonelected brake which is internal to the hydraulic motor.

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Claim 8 is drawn to the nonelected rotary encoder travel limiter.

Claim 12 recites a nonelected pressure transducer switch.

Claim 21 is drawn to the nonelected return check valve, or ratchet mechanism, brake.

Claim 38, and dependent claims 39-42, recite a positive action brake which is not generic to the elected worm gear reducer brake.

Claims 29 (and hence dependent claims 30-37), 43-45 and 64-66 recite that one traveler engages each contact element, thereby not reading on elected Figs. 15-17,

The following claims will be examined: 1-4, 9-11, 13-19, 22, 24, 26-28, 46-48 and 67.

### ***Claim Rejections - 35 USC § 112***

Claims 10, 19, 22, 24 and 26 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, the travel limiter means is recited as comprising a worm drive gear. However, the worm drive gear is disclosed as a brake.

In claims 19 and 37, there is no antecedent basis for "the hydraulic motor" and "said hydraulic motor", respectively.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4,9,13-19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granderath in view of Ragsdale et al '613.

Granderath discloses in Fig. 9 a cover for pools having buoyant slats for automatic deployment and an operating system which uses a power source 65, electric motor 64 and a self locking worm gear reducer 63, column 5, lines 34-71. As disclosed, the worm gear reducer operates as a brake to slow the deployment of cover. A limit switch, i.e. travel limiter, is also used, column 4, lines 3-6. What is not disclosed is a hydraulic motor operating means. However, Ragsdale et al provides a pool cover which does use a hydraulic motor as seen in Fig. 5. See control 258, electric motor 254, and hydraulic motor 246. In view of this teaching, it would have been obvious to modify Granderath whereby his electric motor is replaced with the electric/hydraulic system of Ragsdale et al so as to eliminate the possibility of electric shock. Regarding claim 17, the traveler rotatable shaft is broadly recited and reads on shaft 49 in Granderath and is considered part of the travel limiter device.

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Claims 11,24,26 and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granderath in view of Ragsdale et al '613 as applied above, and further in view of Layer.

Layer discloses a known generically usable hydraulic overtravel preventing system. This system is usable in any system in which movement by way of hydraulic drive means is accomplished, such as in the proposed combination of Granderath and Ragsdale. It would have been obvious to replace the limit switch system of Granderath with such a feature so as to better prevent damage to the pool cover and system.

Claim 67 is rejected under 35 U.S.C. 103(a) as being unpatentable over Granderath in view of Ragsdale et al '613 and Layer as applied above, and further in view of Shults.

The use of latching relays is well known, especially in the pool cover art as illustrated by Shults, column 6, line 36- column 7, line 27. It would have been obvious to utilize such a switching circuitry in the proposed combination to achieve the advantages thereof.

Claims 27,28,46 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granderath in view of Mimeur.

As disclosed in the present disclosure, Mimeur discloses a switching device for stopping the operation of a rotatable member at each of two extreme positions thereof. It would have been obvious to modify Granderath to have such a switching system to replace his limit switch system.

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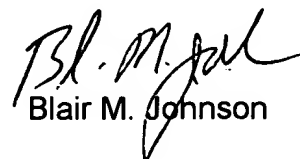
**Conclusion**

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blair M. Johnson whose telephone number is (703) 308-0526. The examiner can normally be reached on Mon.-Fri., 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (703) 308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3597 for regular communications and (703) 305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.



Blair M. Johnson

Primary Examiner  
Art Unit 3634

BMJ  
March 24, 2003